



How to Eliminate CUI from Your Supply Chain

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- Working on NIST 800-171 since 2016
- Enjoys food
- Hates technical debt

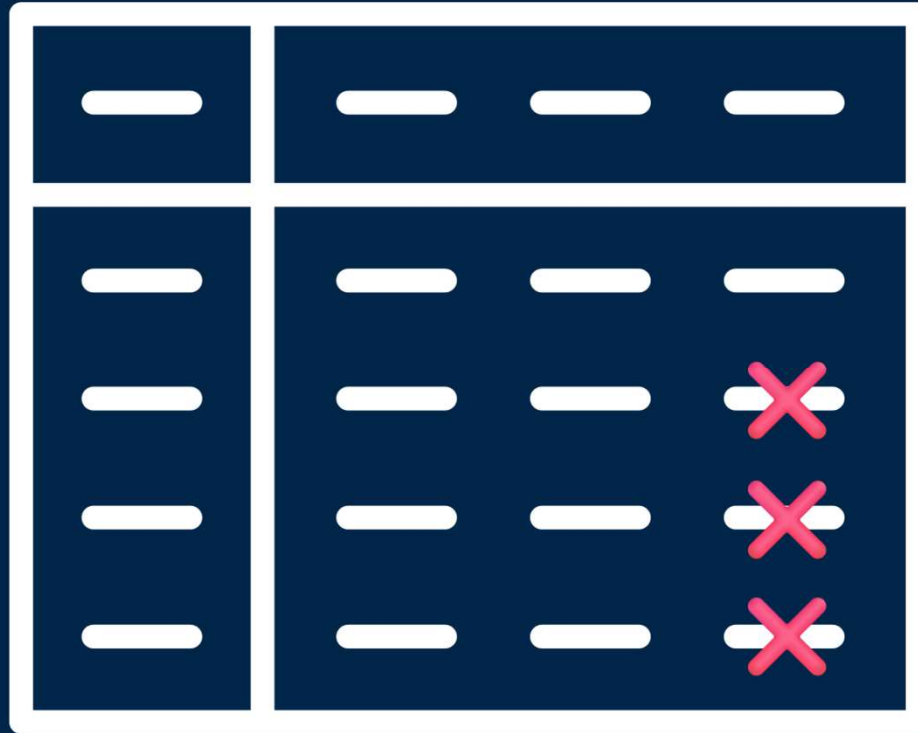


Agenda

- 1 The Existential Threat**
- 2 Supply Chain Roles**
- 3 What is Decontrol?**
- 4 CTI Decontrol**
- 5 Alternatives**
- 6 Q&A**



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Supply Chain Roles

- **OEMs:** Eliminate CUI from original designs
- **Subcontractors:** avoid flowing customer CUI to your suppliers
- **Lower-tier suppliers:** know your “data needs” for subcontract work



What is Decontrol?

- If the information is publicly available, it isn't CUI
- If you own the information, it isn't CUI for you
- If information isn't subject to CUI authorities, it isn't CUI
- Non-CUI can still be nonpublic



Controlled Technical Information (CTI)

- 48 CFR 252.204-7012 defines CTI using 10 U.S.C. 130
- 10 U.S.C. 130(a) limits itself to technical data defined in the ITAR and EAR
- ITAR
 - 22 CFR 120 International Traffic in Arms Regulations
 - 22 CFR 121 US Munitions List
- EAR
 - 15 CFR 772.1 Definitions of Terms
 - 15 CFR 774 Supp 1 The Commerce Control List
 - 15 CFR 774 Supp 2 General Technology and Software Notes

Authorities

10 U.S.C. 130
15 CFR 772.1
15 CFR 774 Supplement 1
15 CFR 774 Supplement 2
22 CFR 120
22 CFR 121
48 CFR 252.204-7012



If the information is publicly available, it isn't CTI

- “[Controlled Technical Information] does not include information that is lawfully publicly available without restrictions.” **DFARS 252.204-7012**
- [Technical data] ...does not include information...in the public domain...” **22 CFR 120.33**
- unclassified “technology” or “software” is “published,” and is thus not “technology” or “software” subject to the EAR, when it has been made available to the public without restrictions upon its further dissemination... **15 CFR 734.7**
- “If an authorized holder publicly releases CUI in accordance with the designating agency's authorized procedures, the release constitutes decontrol of the information.” **32 CFR 2002.18(i)**



If you own the information, it isn't CTI for you

- **Is my Proprietary Information CUI?** “The government will protect it as CUI (and may even send it back to you as CUI) but the proprietary information you create internally and maintain ownership of is not CUI (though it may require protections pursuant to other laws or regs).” **ISOO, CUI Stakeholders Update 2020**
- “Neither party disputes that, when a contractor delivers technical data to the government, the contractor maintains ownership of the data and at least some rights in the data. For example, in this case, both parties agree that, notwithstanding the Air Force’s unlimited rights in technical data Boeing delivers, Boeing still owns those data.” **Armed Services Board of Contract Appeals Case 19-2147**



If information isn't subject to CTI authorities, it isn't CTI

- Public domain/published information is the easiest to decontrol
- Information that doesn't qualify as technical data is not CTI
- Complex decontrol involves comparing your technical data with ITAR technical data and EAR controlled technology



Non-CTI can still be nonpublic

- “Decontrolling CUI relieves authorized holders from requirements to handle the information under the CUI Program, but does not constitute authorization for public release.” **32 CFR 2002.18(e)**



Examples

United States Special Operations Command (USSOCOM) Long Range/Long Endurance (LR/LE) Uncrewed Aerial System (UAS)

C-21 Beyond Line of Sight (BLOS) Communications



USSOCOM LR/LE UAS

- Published military standards
- general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities
- Names of end items



C-21 Beyond Line of Sight(BLOS) Communications

- General system descriptions
- Published industry standards
- Names of end items



Alternatives

- Use CMMC Level 2 certified suppliers
- Provide virtual (read-only) access
- Paper-only CUI
- Bring capabilities in-house



Questions?

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